

ESTTA Tracking number: **ESTTA372091**

Filing date: **10/06/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Shelly D. Moeller
Granted to Date of previous extension	10/06/2010
Address	718 N. Croft Ave., Suite 203 Los Angeles, CA 90069 UNITED STATES
Party who filed Extension of time to oppose	ShellyD.Moeller
Relationship to party who filed Extension of time to oppose	The auto fill did not include the proper spaces between the first name, middle initial, and last name. Spaces were added, no other changes were made.

Attorney information	Donn K. Harms American Patent & Trademark Law Center, Inc. 12702 Via Cortina, Suite 100 Del Mar, CA 92014 UNITED STATES karen@patentpending.com
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Applicant Information

Application No	77917923	Publication date	06/08/2010
Opposition Filing Date	10/06/2010	Opposition Period Ends	10/06/2010
Applicant	SHR & Simmons Jewelry Group, LLC 462 Seventh Avenue, 7th Floor New York, NY 10018 UNITED STATES		


Goods/Services Affected by Opposition

Class 014. All goods and services in the class are opposed, namely: Jewelry
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3110349	Application Date	08/24/2004
Registration Date	06/27/2006	Foreign Priority Date	NONE
Word Mark	ROCKSTYLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2006/01/02 First Use In Commerce: 2006/01/02 Clothing, namely, socks, headbands, t-shirts, tank tops, wrist bands, under garments, jeans, jean jackets, skirts and shirts		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ROCKSTYLE		
Goods/Services	Jewelry		

Attachments	78472445#TMSN.jpeg (1 page)(bytes) Notice of Opp.pdf (4 pages)(34407 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/karen convey/
Name	Karen Convery
Date	10/06/2010

IN THE MATTER OF:
Application No.: 77917923
Mark: ROCKSTYLE
Int'l. Classes: 014
Filing Date: 22 January 2010
Publication Date: 8 June 2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Shelly D. Moeller, an Individual,)	Opposition No.:
)	
Opposer,)	
)	
v.)	
)	
SHR & Simmons Jewelry Group, LLC, a))	
Delaware Limited Liability Company,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

The Opposer, Shelly D. Moeller, an Individual, United States Citizen, located and doing business at 718 N. Croft Ave., Suite 203, Los Angeles, California, 90069, United States (hereinafter Opposer) believes that she has been and/or will be damaged by the registration of Application Serial No. 77917923 for ROCKSTYLE and hereby opposes the same.

As grounds for the Opposition, Opposer alleges as follows:

1. According to Trademark Office Records, Applicant's application was filed on January 22, 2010, and was published in the Official Gazette on June 8, 2010. Opposer sought and was granted Extensions of Time to File Notice of Opposition running until October 6, 2010.

2. Opposer is the owner of Trademark Registration Number 3110349, for the trademark, ROCKSTYLE, for, "Clothing, namely, socks, headbands, t-shirts, tank tops, wrist bands, under garments, jeans, jean jackets, skirts and shirts," in International Class 025.

3. Opposer is now and has continuously used its trademark for clothing, and other goods, including jewelry, throughout the United States and the world.

4. Trademark Registration Number 3110349 is valid and subsisting, unrevoked, and uncanceled and opposer is the owner of it and the mark shown therein and all of the business and goodwill represented thereby.

5. In addition to any rights arising from the registration for Opposer's ROCKSTYLE trademark, Opposer has, with respect to its goods, valid common law rights in the ROCKSTYLE trademark.

6. Opposer's goods and advertising have been widely dispersed.

7. Opposer is also the registered owner of the domain name rockstyle.com, which is an integral part of her business. Opposer's ROCKSTYLE trademark is used and featured extensively on the rockstyle.com web site.

8. By application herein opposed, applicant seeks to register the trademark, ROCKSTYLE, for, "Jewelry," in International Class 014, based on an intent to use the trademark in interstate commerce.

9. Opposer has continuously used or used through licensees the ROCKSTYLE trademark in connection with clothing and related goods since at least as early January 2, 2006, which first use date in commerce predates Applicant's filing date of January 22, 2010, for its Trademark Application Serial Number 77917923, which is based on an intent to use the trademark in commerce.

10. Opposer has come to be known as the source of goods relating to the ROCKSTYLE trademark.

11. Applicant's trademark, ROCKSTYLE, so resembles Opposer's trademark, ROCKSTYLE, that when used on or in connection with Applicant's goods it is likely to cause confusion or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d) with consequent injury to opposer, the consuming public and the trade.

12. The goods identified in Application Trademark Application Serial Number 77917923 and the goods offered by Opposer and/or identified in Opposer's Trademark Registration Number 3110349, and or the goods with respect to which Opposer

has common law rights to the ROCKSTYLE mark, are identical, overlap, and/or are closely related, and are of the type which could be offered in the same channels of trade and to the same prospective customers.

13. If Trademark Application Serial Number 77917923 is registered, the public will reasonably believe that Applicant's goods are provided, sponsored, or endorsed by Opposer, all to the detriment of consumers and Opposer.

14. By reason of all the foregoing, Opposer will be damaged by registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, and will give color and exclusive right to Applicant in violation and derogation of superior rights of Opposer.

15. Applicant's ROCKSTYLE trademark would lessen the capacity of Opposer's ROCKSTYLE trademark to identify and distinguish Opposer's goods sold thereunder, and, as such, would cause dilution of Opposer's ROCKSTYLE trademark in violation of 15 § 1125(c)(1).

16. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in diluting the distinctive quality of Opposer's ROCKSTLYE trademark.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained in favor of Opposer and that Trademark Application Serial No. 77917923 be denied allowance and/or registration.

Opposer submits herewith a payment of the filing fee.

Respectfully submitted:

Dated: October 6, 2010

By: /donn harms/
DONN K. HARMS, Attorney for
Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION, was served upon Applicant, SHR & Simmons Jewelry Group, LLC, by mailing the same, first-class mail, to:

JANE LINOWITZ, ESQ.
LEVISOHN BERGER LLP
11 BROADWAY STE 615
NEW YORK, NY 10004-1490

this 6th day of October, 2010.

By: /karen convery/
Karen Convery